

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING MAP AMENDMENT REPORT (#FZC-21-16)
EDWARD LAPRATH
DECEMBER 23, 2021

I. GENERAL INFORMATION

A. Project Description

This is a report to the Flathead County Planning Board and Board of Commissioners regarding a request by Flathead Geomatics on behalf of Edward LaPrath for a zoning map amendment within the Blanchard Lake Zoning District. The proposed amendment, if approved, would change the zoning on the subject property from 'SAG-10 Suburban Agricultural' to 'R-1 Suburban Residential'

B. Application Personnel

1. Owner

Edward LaPrath
195 Sapphire Court
Whitefish, MT 59937

Technical Representative

Flathead Geomatics, Attn: Josh Lenderman
P.O. Box 1722
Whitefish, MT 59937

C. Process Overview

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11th Street West in Kalispell.

1. Land Use Advisory Committee/Council

The proposal is not located within the jurisdiction of a Land Use Advisory Committee.

2. Planning Board

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on January 12, 2021 at 6:00 P.M. in the 2nd Floor Conference Room of South Campus Building located at 40 11th Street West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration.

3. Commission

In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment on January 27, 2021. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Office of the Board of Commissioners at 800 South Main Street in Kalispell after the Planning Board Hearing and Before the Commissioner's Hearing.

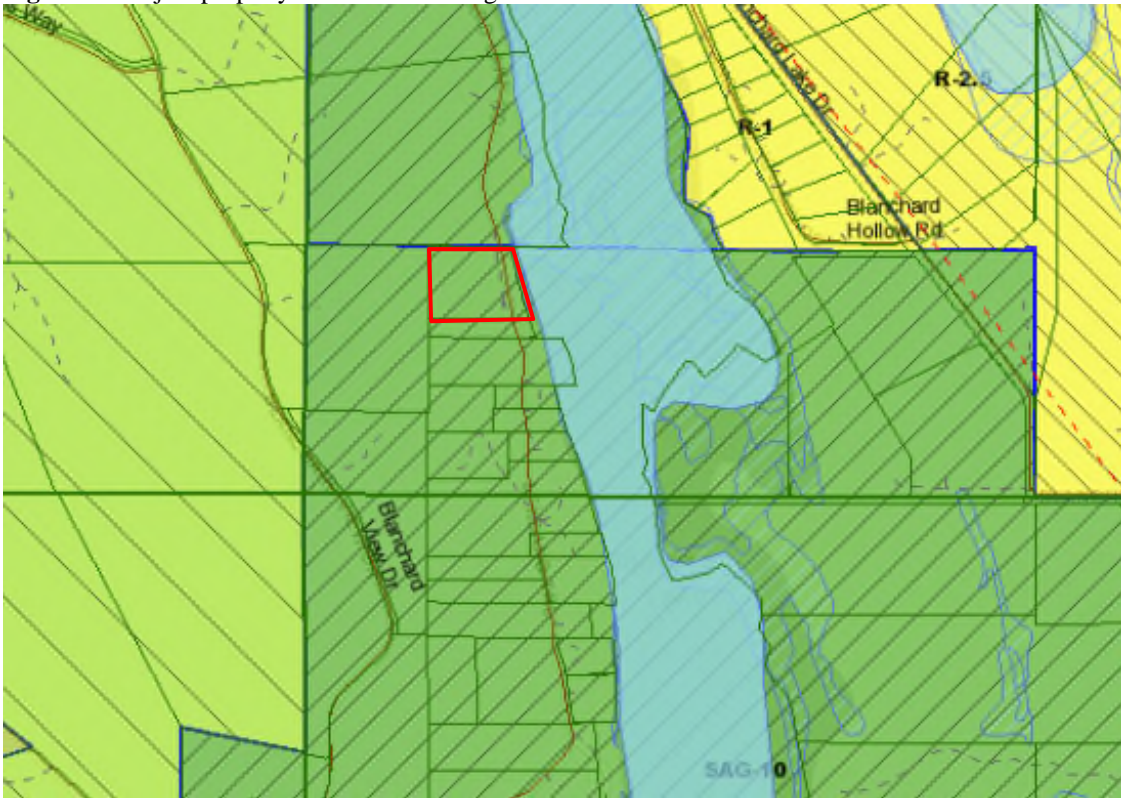
II. PROPERTY CHARACTERISTICS

A. Subject Property Location and Legal Description

The total acreage of the subject property is approximately 4.41 acres and is located along Leksand Trail near Whitefish, MT (see Figure 1). The property is legally described as:

Parcel A of Certificate of Survey No. 21375, located and being in Government Lot 9 of Section 2, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property and current zoning outlined in red



B. General Character of and Reason for Amendment

The subject property is comprised of one tract which is undeveloped. The area is located within mountainous terrain and is significantly forested, with Blanchard Lake on the east side of the subject property. The application states the reason for the amendment is, “The property owner would like to change the zoning determination to better match the adjoining properties in the surrounding area.”

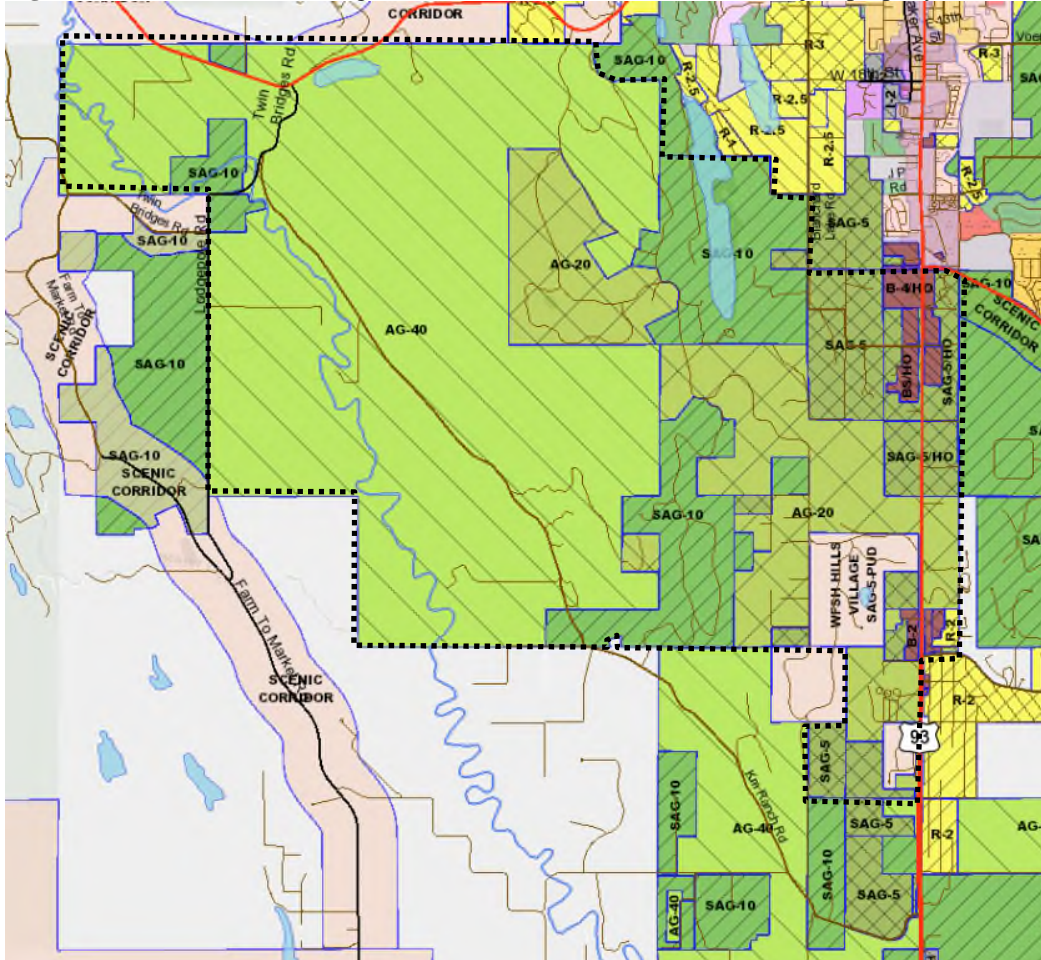
Figure 2: Aerial imagery of subject property



C. Adjacent Zoning and Character of the Overall Zoning District

The property is located in the Blanchard Lake Zoning District. The character of the zoning district in the vicinity of the subject property is generally large tract rural residential with the exception of the smaller rural residential tracts located along Blanchard Lake. The adjacent properties to the north, west, and south are all zoned SAG-10 and Blanchard Lake is to the east.

Figure 3: Blanchard Lake Zoning District, outlined in black dash with subject property outlined in red.



D. Public Services and Facilities

Sewer: N/A
 Water: N/A
 Electricity: Flathead Electric Cooperative
 Natural Gas: Northwestern Energy
 Telephone: CenturyTel
 Schools: Whitefish School District
 Whitefish High School District
 Fire: Whitefish Rural
 Police: Flathead County Sheriff

III. COMMENTS

A. Agency Comments

1. Agency referrals were sent to the following agencies on August 9, 2021:
 - Flathead County Sheriff
 - Public Works/Flathead County Road Department
 - Flathead County Solid Waste
 - Flathead City-County Health Department (inter-office mail)

- Flathead County Weeds & Parks Department
 - Bonneville Power Administration
 - Montana Fish, Wildlife and Parks
 - Flathead County Fire Service Area
 - Whitefish Rural Fire District
 - City of Whitefish
2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
- Flathead City-County Environmental Health
 - Comment: “Environmental Health offers no comment regarding this proposed zone change.”
 - Whitefish Fire District
 - Comment: “This location while not in the City of Whitefish is in our primary response area.”
 - Flathead County Road Department
 - Comment: “At this point the County Road Department does not have any comments on this request.”
 - Flathead County Solid Waste
 - Comment: “The District requests all solid waste generated at the proposed location be hauled by a hauler. North Valley Refuse is the licensed (PSC) Public Service Commission private hauler in this area.”
 - Bonneville Power Administration
 - Comment: “At this time BPA does not object to this request, as the property is located approximately 0.40 miles away from the nearest BPA transmission lines or structures.”
 - Montana Fish, Wildlife and Parks
 - Comment: “As the Flathead Valley undergoes unprecedented development, it is losing wildlife habitat and agricultural lands. Riparian areas, typically representing some of the most important habitat for a wide diversity of wildlife species, are among those sites at risk in this development boom. The area around Blanchard Lake is a riparian habitat that experiences substantial wildlife use, including that of the white-tailed deer, grizzly bears, black bears, and numerous species of birds and other wildlife. Rezoning this property as proposed increases the potential for an important habitat type to be further fragmented.

Zoning reflects community values for the land. Wildlife is highly valued by residents of the Flathead Valley, and these attributes and the natural setting of the valley are often cited as reasons people choose to live or move here. Riparian and other habitat types, addressed as they are by current zoning, are part of this setting and should be well-considered in this and any other individual zone change requests.”

B. Public Comments

1. Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on December 22, 2021. Legal notice of the Planning Board public hearing on this application was published in the December 26, 2021 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment was physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A.] on December 10, 2021. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed zoning map amendment, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

2. Public Comments Received

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for January 12, 2021 and/or the Commissioner's Public Hearing on January 27, 2022. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

IV. EVALUATION OF PROPOSED AMENDMENT

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing zoning amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

A. Build-Out Analysis

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

Per Section 3.07 of the Flathead County Zoning Regulations (FCZR), SAG-10 is defined '*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*'

The R-1 designation is defined in Section 3.09 FCZR as, *'A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions).'*

The permitted uses and conditional uses for the proposed and existing zoning varies. The amendment would decrease the number of permitted uses from 20 to 15 and decrease the number of conditional uses from 24 to 23. There are eight permitted and conditional uses in SAG-10 not allowed in R-1:

- Animal hospital, veterinary clinic,
- Class B manufactured home,
- Dairy products, processing, bottling, and distribution,
- Extractive industry,
- Kennel, commercial,
- Ranch employee housing,
- Recreational facility low-impact, and
- Riding academy, rodeo arena.

The three permitted uses listed within the SAG-10 that are listed as conditional uses in R-1 are as follows:

- Cellular tower,
- Cluster housing, and
- Stable, public.

There is one conditional use listed within the R-1 but not allowed in SAG-10 (Radio and television broadcast station).

The bulk and dimensional requirements within the current and proposed zoning require a 20 foot setback from front, rear, side-corner and side boundary line for principal structures and a setback of 20 feet for the front and side-corner and 5 feet from the rear and side for accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials for both the proposed and current zoning. For SAG-10 the permitted lot coverage is 20% and maximum height is 35 feet and for R-1 the permitted lot coverage is 40% and maximum height of 35 feet.

The existing zoning requires a minimum lot area of ten acres. The subject property totals 4.41 acres which is legally non-conforming and no additional lots could be created under the existing zoning. The proposed zoning requires a minimum lot area of one acre, therefore approximately three additional lots could be created. The requested zone change has the potential to increase density through subsequent subdivision in the future. The bulk and dimensional requirements are similar but the amendment would reduce the number of permitted and conditional uses.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). The subject property is not located in a Neighborhood Plan Area.

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as 'Agricultural.' The proposed R-1 zoning classification would appear to contrast with the current designations. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, "This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map." Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on goals and policies of the Growth Policy.

Part 4 of Chapter 2 the Growth Policy states, *'It is clear that agriculture plays a vital role in both the economy and culture of Flathead County. The custom and culture of agriculture in Flathead County is one of the features that is contributing to rapid growth and development. Lands that have traditionally been used for agriculture are being converted increasingly to residential uses as residents seek rural living.'*

Part 7 of Chapter 2 the Growth Policy states, *'The change in land uses from agriculture and timberlands to residential and the accompanying impacts of that change, create some of the greatest growth challenges to the county.'*

Currently many of the neighboring properties are used for rural residential purposes or remain as forest, however much of the neighboring land is being developed as rural residential. To the west is the Whitefish Hills Phase 2 Subdivision, an approved major subdivision with 6 residential lots, with an overall density of one dwelling per 9.318 acres. To the north is large tract rural residential and to the south along the lake are smaller rural residential lots. It does not appear the timber in this area has been harvested and the area would not be considered agricultural.

The introduction to Part 7 of Chapter 2 states, *'The density of residential developments is an issue raised throughout the public involvement process [...] Residential*

development, including the subdivision of land, is not inherently problematic. However, residential development at a density that is not compatible with existing local services and neighborhood character is likely to be contentious.’ It goes on to say that, ‘Capacity is based on the size and quality of the road, and once the capacity is exceeded, public safety suffers. Low density residential land uses on low capacity roads are a match, but medium or high density land uses on low capacity roads create problems.’

The proposed zoning would allow for residential uses on the property. The R-1 zone is a residential zone with a one acre minimum lot size. R-1 does not require public water and sewer and the lot would generally be large enough to accommodate a septic system with a drainfield while providing separation for a well. The proposed change would allow for three additional lots and increase traffic by 30 average daily trips, which as discussed below, may not be able to be accommodated by the existing road system serving the property.

The following is a consideration of goals and policies which appear to be applicable to the proposed zone change:

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
 - The amendment would allow the owner to subdivide but would also allow for the continuation of the existing use on the property.
- ❖ **G.3** – *Preserve the cultural integrity of private and public agriculture and timber lands in Flathead County by protecting the right to active use and management and allowing a flexibility of private land use that is economically and environmentally viable to both the landowner and Flathead County.*
 - **P.3.3** – *Maintain flexibility of land use options to forest and agriculture land owners by focusing on mitigating the negative impacts of development.*
 - **P.4.3** – *Identify a desirable gross density for rural residential development that retains land values, preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc.)*
 - Even though the property has not historically been used for agriculture and silviculture the R-1 zoning would allow for agriculture and silviculture similar to the existing zone.
- ❖ **G.4** – *Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land uses*
 - **P.4.5** – *Develop equitable and predictable impact-mitigation for converting agricultural lands to residential uses.*
 - The proposed zoning would allow for agriculture on the subject property while providing additional flexibility to the landowner to subdivide the property and sell off smaller lots.
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*

- The R-1 designation would allow for densities of one dwelling unit per one acre for single family. One dwelling unit per one acre would likely not require public water and sewer. Further discussion on public utilities is contained later in this report.
- **P.8.2 – Identify required criteria for various densities that support the seven elements of the public’s vision outlined in Chapter 1.**

The Seven Elements of the Public’s Vision include:

- *Protect the Views*

The vision states, *‘One characteristic that residents of Flathead County cherish is the view. Views of mountains, lakes, forests, wildlife, and open spaces are cited as characteristics residents of Flathead County would not change. “Scenic resources” are valued throughout the county regardless of age, gender or location.’* The proposed zone change if approved would likely have minimal impact on views because it would allow for three additional lots and the property is heavily forested with limited views.

- *Promote a Diverse Economy*

The vision states, *‘The cost of living and home ownership should be affordable to the median income.’* The proposed zone change if approved could allow for additional single family residential adding to the housing supply which has the potential to make homeownership more affordable because the R-1 zone would allow for Accessory Dwelling Units which have the potential to add affordable rental units to the county.

- *Manage Transportation*

Vision 3 discusses managing traffic flow through land development patterns; this report contains discussion regarding the proposals impacts on traffic below.

- *Maintain the Identity of Rural Communities*

The vision states, *‘Preventing communities from growing together and losing their unique identities was another concern of many scoping meeting participants. The concern of seeing Flathead County turn into one continuous sprawling development was expressed in a variety of ways. Many residents of Flathead County do not want to see strip malls, used car lots, mini storage, warehouse stores, lumber yards, and other visually dominating land uses disrupt the perception of driving between unique rural communities.’* The proposed R-1 zoning is rural zoning district that would allow for rural residential development.

- *Protect Access to and Interaction with Parks and Recreation*

This report contains a discussion on parks and recreation below.

- *Properly Manage and Protect the Natural and Human Environment*

The vision states, *‘Air and water quality were mentioned frequently as well as co-habitation of people and wildlife being qualities that make Flathead County unique and desirable. Many residents expressed a*

desire to protect the lakes, rivers, ponds, groundwater and air for future generations.’ The property does not contain any surface waters or groundwater which would be impacted by this proposal. And the increased residential density is likely to have a minimum impact on air quality.

- *Preserve the Rights of Private Property Owners.*
As previously stated, the amendment would allow the owner to subdivide the property, but would also allow for the continuation of agricultural on the property.
- ❖ *G.15 – Promote a diverse demographic of residents.*
 - *P.15.1 – Encourage housing, employment, education and recreation to attract, support and maintain young families.*
 - The R-1 zone would allow for a single family dwelling, manufactured homes and would also allow for accessory dwelling units as a permitted use, all of which has the potential to make housing more affordable for young families.
- ❖ *G.23 – Maintain safe and efficient traffic flow and mobility on county roadways.*
 - *P.23.2 – Limit private driveways from directly accessing arterials and collector roads to safe separation distances.*
 - Primary access to the property is currently via Leksand Trail from West Blanchard Lake Road. Leksand Trail is a private gravel road within a 60 foot easement and West Blanchard Lake Road is a private gravel road, within a 60 foot easement.
- ❖ *G.31 – Growth that does not place unreasonable burden on the school district to provide quality education.*
 - This report contains discussion on the proposal’s potential burden on schools below.
- ❖ *G.32 – Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ *G.33 – Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
 - This report contains discussion on the adequacy of emergency service below.

Finding #1: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because even though the property has not historically been used for agriculture and silviculture the R-1 zoning would continue to allow for agriculture and silviculture, the R-1 zone would allow for manufactured homes, single family homes and ADUs which has the potential to allow for affordable housing options, the property is located in a rural area and the proposed zoning is rural in nature.

2. Whether the proposed map amendment is designed to:

a. Secure safety from fire and other dangers;

According to the application, “The proposed zone amendment is located within the Whitefish Rural Fire District like all surrounding properties and will be secure and

safe from fire and any dangers. Additionally, proper forest maintenance and defensible space will provide a greater security from potential fire dangers, and with any development of the land, fuels will be reduced by default.”

The subject property is located within the Whitefish Rural Fire District and as such is served by the Whitefish Fire Department. Whitefish Fire Department is located approximately 4 driving miles away from the property along Flathead Avenue. The area is also within the Wildland Urban Interface (WUI) and within a ‘Medium High’ county wide district priority area.

The subject property is accessed by a roadway system that becomes increasingly narrow and less developed. Leksand Trail is a 13-foot wide, one-way gravel road with very few turn-outs leading to the property. The Whitefish Fire Department had no objections to this proposal however, it does not appear there is adequate access for emergency vehicles. In addition, the property could be hazardous in the event of wildfire as evacuation could be hindered by limited access. However, these issues could be resolved during subdivision review if the lots are subdivided in the future.

According to FEMA FIRM Panel 30029C1800J, the majority of the property is located within an unshaded Zone X an area determined to be outside the 0.2% annual chance flood hazard. A small portion of the property that borders Blanchard Lake is Zone A of the 100-year floodplain.

Figure 4: FEMA FIRM Panel 30029C1090J



Finding #2: The proposed map amendment may impact safety from fire because the property is accessed by Leksand Trail which is a 13-foot wide, one-lane gravel road with limited turn-outs which may limit access to emergency vehicles and evacuation efforts in the event of a wildfire, however concerns regarding access may be mitigated during subdivision review and although a small portion of the property contains floodplain, those issues could be mitigated with future development.

b. Promote public health, public safety, and general welfare;

As previously stated, the property is located within the Whitefish Rural Fire District which the Whitefish Fire Department would respond in the event of a fire or medical emergency. The Flathead County Sheriff's Department provides police services to the subject property and has issued a comment concerning access in the event of an emergency. Due to the proposed one acre minimum lot size, the property would be subject to the Sanitation in Subdivisions Act and could potentially be divided via the Family Transfer exemption within the Subdivision in Platting Act. Mitigation of the fire and access issues could only be accommodated during subdivision review in proportion to the impacts created by the additional lots.

The proposed zoning would require the same setback and height restrictions as the existing zoning and similar permitted and conditional uses. While the proposed density allowed in the R-1 zoning is ten times the density in the SAG-10 zoning, the overall character of the area would remain rural.

Finding #3: The proposed zoning map amendment may have a negative impact on public health, public safety and general welfare because although the property is served by the Whitefish Fire Department, access would be from Leksand Trail which is a single lane gravel road on uneven terrain, and impacts to the proposed additional density would only be addressed and mitigated if the property is divided via review under the Subdivision and Platting Act.

c. Facilitate the adequate provision of transportation, water, sewer, schools, parks, and other public requirements.

As previously stated, the subject property is located along Leksand Trail, a 13-foot wide, single lane gravel road within a 60-foot easement. According to the application, "Yes the proposed zone amendment will facilitate the adequate provision of transportation, water, sewage, schools and other public requirements within reason. The subject property is located off MT Hwy 93 West via Sasquatch Hollow which has an existing 60' easement, then transitions into West Blanchard Lake Road which has an existing 60' easement, then transitions into Leksand Trail at the North boundary of Mr. LaPrath's property which has an existing 20' easement [...]"

Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling for single family residential. The property is approximately 4.41 acres in size. The proposed zoning could allow for approximately three additional lots for a total of four single family dwellings which would generate an increase of approximately 40 ADT. The Flathead County Road and Bridge Department indicated no concern with the proposal as the roads are private.

The subject property is not located within close proximity to public water or sewer service and would be served by well and septic system. The applicant will be required to work with Flathead City-County Health Department to meet the needs of any future development. It does not appear as though the proposal would have a negative impact on water and sewer and the proposal would be subject to the Sanitation in Subdivision Act.

The subject property is located within the Whitefish School District and Whitefish High School District. According to census data for Flathead County, the average household size is 2.46 persons and approximately 16.5% of the population is between the ages of 5-18 years. The proposed zoning has the potential to add one school age children. The increase in school age children that could result from this proposal is not likely to impact the schools.

Finding #4: The proposed zoning map amendment does not appear to facilitate the adequate provision of transportation because the existing one-lane gravel road does not appear adequate to accommodate the change in zoning, and the additional traffic.

Finding #5: The proposed amendment would facilitate the adequate provision of water, sewer, schools, parks, and other public requirements because further division of land on the subject property would be subject to the Subdivision and Platting Act, there would be minimal impact on parks and the proposal has the potential to generate one school age child.

3. In evaluating the proposed map amendment, consideration shall be given to:

a. The reasonable provision of adequate light and air;

The bulk and dimensional requirements, which includes setbacks, have been established to provide for a reasonable provision of light and air. The minimum lot area for the proposed R-1 zoning designation is one acre and the minimum lot area for the existing SAG-10 zone is 10 acres. The density allowed within the proposed zoning would be ten times the density allowed within the current SAG-10 zoning designation, albeit the proposed R-1 zone would still be considered relatively rural. The bulk and dimensional requirements for the R-1 zoning designation have been established to provide for a reasonable provision of light and air.

Finding #6: The proposed zoning map amendment will provide adequate light and air to the subject property because future development will be required to meet the bulk and dimensional, setbacks and lot coverage requirements within the proposed R-1 zoning designation.

b. The effect on motorized and non-motorized transportation systems;

As previously stated, primary access to the property is currently from Leksand Trail via West Blanchard Lake Road and Sasquatch Hollow. Leksand Trail is a 13-foot, one-lane gravel road within a 60-foot easement, along steep mountain grades.

Leksand Trail is private road with no traffic counts available. Staff calculated estimated average daily traffic (ADT) using a standard trip generation of 10 trips per single family dwelling. Given that there are about 25 properties accessed via Leksand Trail, it could have approximately 250 ADT. The subject property could be divided into 3 additional lots if the zone change is approved. Based on projected land uses arising from the proposed zone change this proposal would likely generate an additional 40 ADT. Comments received from the Flathead County Road and Bridge Department state the department has no comment at this time. Because Leksand Trail is a gravel, one-lane road on mountainous terrain, potential 16% increase in traffic may not be appropriate.

There is no existing bike/pedestrian facilities currently located along Leksand Trail, West Blanchard Lake Road or Sasquatch Hollow and no future bike/pedestrian trail is identified on Leksand Trail in the Flathead County Trails Plan.

Finding #7: The proposal could have negative effects on motorized because the existing one-lane gravel roads do not appear adequate to accommodate the change in zoning due to the potential 16% increase in traffic.

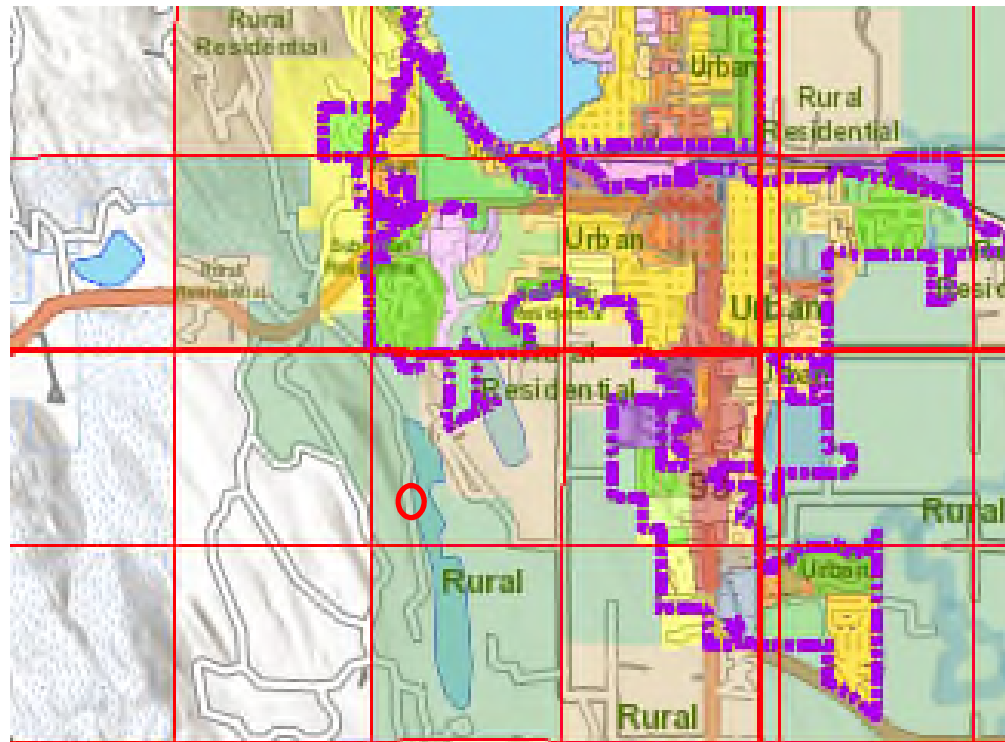
Finding #8: Effects on non-motorized transportation systems will be minimal because the change will not have an impact on the bicycle/pedestrian trails in the county.

c. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

The subject property is approximately a three quarters of a mile from the City of Whitefish. As of the date of the completion of this staff report, no comments have been received from the City of Whitefish about this proposal. According to the application, “The proposed zone amendment considers the urban growth in relation to the cities and towns, and whether it is compatible. The subject property is more rural in nature and is located ¾ mile south of the Whitefish City limits. The proposed zone amendment is compatible with the growth of the surrounding properties, as it represents size, use and character of them. There are several properties to the south along Leksand Trail which are smaller in size, yet they are in the SAG-10 zoning designation. Across Blanchard Lake to the east in the Blanchard Hollow Subdivision lots range from 0.84 acres to 2.33 acres and this subdivision is zoned R-1 with similar proximity to the Whitefish City limits.”

The Whitefish City-County Growth Policy Future Land Use Map includes the subject property. The Whitefish City-County Growth Policy Future Land Use Map designated the property as “Rural.” According to the Whitefish City-County Growth Policy the “Rural” land use designation is defined as, “Open lands with decidedly rural character, including farmlands, pasture lands, timber harvesting and management areas, and forest lands generally fall under this designation. Agricultural and timber management are generally allowed, but residential densities are extremely low. This designation includes “important farmlands” as defined by National Resources Conservation Service criteria. Zoning is mainly WA-10 and WA-20.”

Figure 6: Northern portion of City of Whitefish Growth Policy Future Land Use Map (Property outlined in red)



Finding #9: The proposal does not appear to be compatible with urban growth in the vicinity of Whitefish because although the property is located within the City of Whitefish Growth Policy Future Land Use Map, the “Rural” designation calls for 10 to 20-acre minimum lots which does not match the density of the proposed zoning and the City of Whitefish had no comments regarding this request.

- d. **The character of the district(s) and its peculiar suitability for particular uses;**
The character of the district and its peculiar suitability for particular uses can best be addressed using the “three part test” established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.
- i. **The zoning allows a use that differs significantly from the prevailing use in the area.**
The intent of the current ‘SAG-10 Suburban Agricultural’ zoning designation is a district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development. The proposed “R-1 Suburban Residential’ is a district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g.,

extreme topography, areas adjacent to floodplains, airport runway alignment extensions).

The properties to the north, south, and west of the subject property are zoned SAG-10, the existing zoning designation. The properties to the west are zoned R-1 and SAG-10. The closest R-1 zoning is west across Blanchard Lake, approximately 0.18 miles away. While the proposed suburban residential zoning designation is not ‘prevalent’ in the immediate vicinity, the uses do not differ significantly from the SAG-10 zoning designation.

ii. ***The zoning applies to a small area or benefits a small number of separate landowners.***

The zoning map amendment would apply to one tract of land owned by one landowner, covering approximately 4.41 acres.

iii. ***The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.***

The subject property is in the vicinity of the R-1 zoning and would create 4.41 acres of R-1 Suburban Residential zoning. The uses that are allowed within the proposed zone would be similar to the SAG-10 zoning. In the immediate vicinity there are a number of tracts just over 1 acre along the lake to the south, within a 1 mile radius.

The character of the district around the subject property to the north and west consist of large tract residential use or undeveloped. The proposed zone change is likely to be at the expense of the surrounding landowners or the general public because the road network on Leksand Trail via West Blanchard view Drive is not adequate to handle the additional traffic.

Finding #10: The proposed zoning map amendment does not appear to constitute spot zoning because the uses do not differ significantly from the prevailing uses in the area.

e. **Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**

The subject property is located within the Blanchard Lake Zoning District and is located within a forested and low density area of the county (Figures 2 and 3).

Previous sections of this report have discussed the differences between permitted and conditional uses in the existing SAG-10 zoning and the proposed R-1 zoning designation. Conserving the value of buildings throughout the jurisdictional area is a function of allowing land uses that are appropriate and reasonable. Most of the land uses listed as permitted uses in the proposed SAG-10 zone exist in the vicinity of the subject property such as; single family residential and agricultural/silvicultural use. The permitted and conditional uses would likely not impact the value of buildings and would be appropriate land uses throughout the area of the proposed zone change because they already exist in the area. The uses allowed in the proposed zoning are similar to the existing uses.

Finding #11: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location

because the proposed R-1 zoning designation allows for similar uses to the neighboring single family residential and agricultural/silvicultural use.

4. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The location of the proposed zoning map amendment is not directly adjacent to any city but it is located approximately 3/4 miles west of the City of Whitefish. As previously stated, the subject property is included within the City of Whitefish Growth Policy Future Land Use Map. The nearest City of Whitefish zoning is WCR (Country Residential) where the minimum lot size is 2.5 acres.

Finding #12: The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Whitefish because the proposed zoning is located inside the City of Whitefish Growth Policy Future Land Use Map.

V. SUMMARY OF FINDINGS

Finding #1: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because even though the property has not historically been used for agriculture and silviculture the R-1 zoning would continue to allow for agriculture and silviculture, the R-1 zone would allow for manufactured homes, single family homes and ADUs which has the potential to allow for affordable housing options, the property is located in a rural area and the proposed zoning is rural in nature.

Finding #2: The proposed map amendment may impact safety from fire because the property is accessed by Leksand Trail which is a 13-foot wide, one-lane gravel road with limited turn-outs which may limit access to emergency vehicles and evacuation efforts in the event of a wildfire, however concerns regarding access may be mitigated during subdivision review and although a small portion of the property contains floodplain, those issues could be mitigated with future development.

Finding #3: The proposed zoning map amendment may have a negative impact on public health, public safety and general welfare because although the property is served by the Whitefish Fire Department, access would be from Leksand Trail which is a single lane gravel road on uneven terrain, and impacts to the proposed additional density would only be addressed and mitigated if the property is divided via review under the Subdivision and Platting Act.

Finding #4: The proposed zoning map amendment does not appear to facilitate the adequate provision of transportation because the existing one-lane gravel road does not appear adequate to accommodate the change in zoning, and the additional traffic.

Finding #5: The proposed amendment would facilitate the adequate provision of water, sewer, schools, parks, and other public requirements because further division of land on the subject property would be subject to the Subdivision and Platting Act, there would be minimal impact on parks and the proposal has the potential to generate one school age child.

Finding #6: The proposed zoning map amendment will provide adequate light and air to the subject property because future development will be required to meet the bulk and dimensional, setbacks and lot coverage requirements within the proposed R-1 zoning designation.

Finding #7: The proposal could have negative effects on motorized because the existing one-lane gravel roads do not appear adequate to accommodate the change in zoning due to the potential 16% increase in traffic.

Finding #8: Effects on non-motorized transportation systems will be minimal because the change will not have an impact on the bicycle/pedestrian trails in the county.

Finding #9: The proposal does not appear to be compatible with urban growth in the vicinity of Whitefish because although the property is located within the City of Whitefish Growth Policy Future Land Use Map, the “Rural” designation calls for 10 to 20-acre minimum lots which does not match the density of the proposed zoning and the City of Whitefish had no comments regarding this request.

Finding #10: The proposed zoning map amendment does not appear to constitute spot zoning because the uses do not differ significantly from the prevailing uses in the area.

Finding #11: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the proposed R-1 zoning designation allows for similar uses to the neighboring single family residential and agricultural/silvicultural use.

Finding #12: The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Whitefish because the proposed zoning is located inside the City of Whitefish Growth Policy Future Land Use Map.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal does not comply with the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: LM